

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ALFRED VALENTINO GARCIA,

Plaintiff,

vs.

No. CIV 09-1103 LH/LFG

STATE OF NEW MEXICO, STATE OF NEW
MEXICO CORRECTIONS DEPARTMENT,
BILL RICHARDSON, Governor, JOE WILLIAMS,
Secretary of Corrections, and UNIDENTIFIED
CORRECTIONS PERSONNEL AND
CONTRACTORS,

Defendants.

ORDER DENYING AS MOOT
DEFENDANT'S MOTION TO STAY DISCOVERY

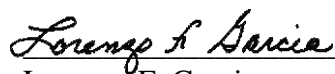
THIS MATTER comes before the Court on Defendant Governor Bill Richardson's Motion to Stay Discovery Pending a Decision on Qualified Immunity [Doc. 8]. No response is necessary.

Defendant Richardson asks that the Court stay all discovery on grounds he has asserted a defense of qualified immunity and should therefore be protected not only from liability but from the burdens of pretrial discovery as well. The Court acknowledges that principle. However, this case is excluded from the usual pretrial case management procedures, including the setting of discovery deadlines, as it is a *pro se* action brought by an inmate. *See*, D.N.M.LR-Civ. 16.3(d).

In such cases, the Court will order that a report be prepared pursuant to Martinez v. Aaron, 570 F.2d 317, 320 (10th Cir. 1978), if necessary for further factual development. Thus, no discovery may be had in any event, and Defendant's Motion is therefore moot. The Motion to Dismiss [Doc. 7], which raises a qualified immunity argument on behalf of Defendant Richardson,

will be resolved once it is fully briefed.

IT IS THEREFORE ORDERED that Defendant Richardson's Motion to Stay Discovery Pending a Decision on Qualified Immunity [Doc. 8] is denied as moot.

A handwritten signature in cursive script, reading "Lorenzo F. Garcia", positioned above a horizontal line.

Lorenzo F. Garcia
United States Magistrate Judge